

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE BOARD OF ACCOUNTANCY**

In the Matter of  
James Joseph McLaughlin, CPA

**FINDINGS OF FACT, CONCLUSIONS,  
AND RECOMMENDATION**

Certificate to Practice No. 04156  
Sole Proprietor Firm No. 04156

This matter was scheduled for a Prehearing Conference before an Administrative Law Judge at 2:00 p.m. on March 8, 2005, at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota. Gregory P. Huwe, Assistant Attorney General, 1800 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2134, was available by telephone for the Board of Accountancy. No one appeared for Respondent James Joseph McLaughlin, nor did Respondent contact the Administrative Law Judge to request a continuance of this matter.

**NOTICE**

This report is a recommendation, not a final decision. The Board of Accountancy will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61, the Board shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Board at the address above to learn the procedure for filing exceptions or presenting argument.

If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

Pursuant to Minn. Stat. § 14.62, subd. 1, the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

**STATEMENT OF ISSUES**

1. Did Respondent fail to comply with quality review cycle requirements in violation of Minn. Stat. § 326A.04, subd. 10 (Supp. 2003) and Minn. R. 1105.4600 through 1105.5000 (2003)?

2. Did Respondent fail to cooperate with an investigation of the Board, in violation of Minn. R. 1105.1300?
3. Did Respondent violate a statute or rule the Board is empowered to enforce, in violation of Minn. Stat. § 326A.08, subd. 5(1) (Supp. 2003)?
4. Did Respondent violate Minn. Stat. § 326A.08 by conducting an act that is discreditable to the profession under Minn. R. 1105.7800, item C?
5. Did Respondent fail to respond to communications from the Board's Complaint Committee in violation of Minn. R. 1105.1200?<sup>[1]</sup>
6. Did Respondent fail to renew his CPA certificate and Sole Proprietor Firm in violation of Minn. Stat. § 326A.08, subd. 5(8) (Supp. 2003)?
7. Did Respondent advertise and hold himself out as a certified public accountant or a CPA firm in violation of Minn. Stat. § 326A.10?
8. Did Respondent engage in conduct or acts that are negligent in violation of Minn. Stat. § 326A.08, subd. 5(3) (Supp. 2003)?
9. Does Respondent's conduct constitute grounds for the Board to take disciplinary action against Respondent?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

1. On February 3, 2005, the Notice and Order for Hearing and Prehearing Conference in this matter was served by first class mail upon James Joseph McLaughlin, 5775 Wayzata Blvd., Suite 795, Minneapolis, MN 55416, the last known address on file with the Board. It notified Respondent of the prehearing conference scheduled for March 8, 2005. The record does not show that the Notice was returned.
2. On March 8, 2005, Respondent failed to appear at the prehearing conference, or to notify the Board or the Administrative Law Judge that he was unable to appear.
3. The Notice and Order for Hearing and Prehearing Conference informed Respondent that if he failed to appear at the prehearing conference the allegations against him, set forth in the Notice, could be taken as true, and a default order could be issued.
4. Because Respondent failed to appear, he is in default.

5. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order for Hearing and Prehearing Conference are taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Board of Accountancy and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and 326A.08.

2. The Board has given proper notice of the prehearing conference in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. Respondent, having made no appearance at the prehearing conference and not requesting any continuance or relief, is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order for Hearing and Prehearing Conference are hereby taken as true.

4. Pursuant to Minn. Stat. § 326A.08, subd. 5, the Board may by order deny, refuse to renew, suspend, temporarily suspend, or revoke the application, or practice privileges, registration or certificate of a person or firm, and may impose a civil penalty as provided for in Minn. Stat. § 326A.08, subd. 7, if the Board finds that the order is in the public interest, and that the person or firm has, among other things, violated a statute or rule the Board is empowered to enforce; engaged in conduct or acts that are negligent where the conduct or acts relate to providing professional services; or failed to meet any requirement for the issuance or renewal of the person's or firm's certificate, registration or permit, or for practice privileges.

5. Respondent failed to comply with quality review cycle requirements in violation of Minn. Stat. § 326A.04, subd. 10 (Supp. 2003) and Minn. R. 1105.4600 through 1105.5000 (2003).

6. Respondent failed to cooperate with an investigation of the Board, in violation of Minn. R. 1105.1300.

7. Respondent failed to respond to communications from the Board's Complaint Committee in violation of Minn. R. 1105.1200.

8. Respondent violated a statute or rule the Board is empowered to enforce, in violation of Minn. Stat. § 326A.08, subd. 5(1) (Supp. 2003).

9. Respondent violated Minn. Stat. § 326A.08 by conducting an act that is discreditable to the profession under Minn. R. 1105.7800, item C.

10. Respondent failed to renew his CPA certificate and Sole Proprietor Firm in violation of Minn. Stat. § 326A.08, subd. 5(8) (Supp. 2003).

11. Respondent advertised and held himself out as a certified public accountant or a CPA firm in violation of Minn. Stat. § 326A.10.

12. Respondent engaged in conduct or acts that were negligent in violation of Minn. Stat. § 326A.08, subd. 5(3) (Supp. 2003).

13. Discipline of Respondent is in the public interest.

14. Respondent's conduct constitutes grounds for the Board to take disciplinary action against Respondent.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS RESPECTFULLY RECOMMENDED that the Board take disciplinary action against Respondent.

Dated: March 16, 2005

s/Steve M. Mihalchick  
STEVE M. MIHALCHICK  
Administrative Law Judge

Reported: Default

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<sup>[1]</sup> The Notice and Order for Hearing and Prehearing Conference cited Minn. R. 1105.2000, retake and conditioning policies. The Administrative Law Judge notes that the Board likely meant to cite Minn. R. 1105.1200, regarding communications with the Board.